

INSTRUCTIONS TO COUNSEL RE TRIAL PROCEDURE AND CONDUCT¹

1. Efficient Use of Courtroom Time

Please always be on time. It is important to anticipate objections in order to avoid unnecessary bench conferences. When the jury is present, virtually every minute should be spent taking testimony.

2. Exhibits

A. You must pre-mark exhibits.

B. You should not formally move exhibits into evidence. Under Local Rule 107.5.b they are admitted when they are first mentioned during the questioning of a witness unless the opposing party objects or unless the party mentioning them asks that they be marked for identification only.

C. You may circulate exhibits to the jury without asking permission of the court provided you then continue with questioning.

D. If you plan to use exhibit books, you should first confer with opposing counsel about their contents and bring to the attention of the court any matters in dispute. Please provide copies for one lawyer per party, a copy for the witness, a copy for the judge, and (at your option) a copy for each juror.

3. Witnesses

A. Treat witnesses with courtesy and respect and address them by their surnames (except persons under the age of 18).

B. Do not appear to address yourself to jurors when questioning a witness.

4. Prohibited Questions and Remarks

A. Do not ask a witness whether it “would surprise you to know” that a certain event occurred.

B. Do not ask “if I were to tell you that another witness testified to a certain fact, would you disagree with him?” (or “was she lying” or “not telling the truth”?)

C. Do not remind a witness that he is under oath or ask whether he expects the jury to believe his testimony.

¹ These instructions are based in part on Local Rule 107. You must be fully familiar with all of the provisions of that Rule.

5. Movement In The Courtroom

A. Please stand when addressing the court.

B. You may (unless recording or amplification equipment otherwise requires) ask questions of a witness from any fixed location in the well of the court but you may not ask questions while pacing around the courtroom.

C. You may approach a witness to show an exhibit without prior approval of the court but may not do so for any other reason.

D. When addressing jurors, please stand a respectful distance away from them.

6. Objections

You should not make speaking objections or, unless invited to do so by the court, argue rulings in front of the jury.

7. Opening Statements and Closing Arguments

A. Unless otherwise ordered by the court, no opening statement or closing argument (including rebuttal argument) shall exceed one hour.

B. Exhibits and demonstrative aids may not be displayed to the jury during opening statement or closing argument. Please also show any new demonstrative aid you intend to display during closing argument to opposing counsel before doing so.

C. During closing argument you may not state your personal opinion as to the merits of your case, the credibility of a witness, or the culpability of a civil litigant, or guilt or innocence of an accused.

8. Exclusion of Witnesses Rule and Talking to Witnesses on the Stand

Local Rule 107.7 describes the meaning of the exclusion of witness (sequestration) rule. Local Rule 107.14 describes when counsel may talk to a witness on the stand.

9. Beeper, Pagers and Portable Telephones

Please turn off (and instruct your clients and witnesses to turn off) all audible beepers, pagers, and portable telephones before entering the courtroom.

10. Food and Drink

Please do not bring any food or drink (other than water) into the courtroom. If you want to use bottled water, you should pour it into the pitchers provided by the court.

11. Use of Courtroom Telephone Prohibited

Please do not use the courtroom telephone unless authorized by the court.